UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

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Ex parte MICHAEL RAY CRABTREE, SUHWE LEE, and NANCY QUEK

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Appeal 2006-2157
Application 09/752,204
Technology Center 1700

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Decided: March 28, 2007

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Before TERRY J. OWENS, LINDA E. HORNER, and ANTON W. FETTING, *Administrative Patent Judges.*

FETTING, *Administrative Patent Judge.*

DECISION ON APPEAL

STATEMENT OF CASE

This appeal involves claims 1, 3-5, 7-10, 12-34, 36-38, 40-43, 45-69, 71-73, 75-78, and 80-101, the only claims pending in this application. We have jurisdiction over the appeal pursuant to 35 U.S.C. §§ 6 and 134.

We REVERSE.

1   The Appellants invented a manner of exchanging commodities by creating

2   private trading relationships within a public trading hub (Specification 1). An

3   understanding of the invention can be derived from a reading of exemplary

4   claim 1, which is reproduced below.

5   1. A computer-implemented method of facilitating the exchange of
6   commodities, said method comprising:

7   utilizing by a buyer entity and a seller entity an automated public
8   business trading hub in the public exchange of one or more
9   commodities, wherein the buyer entity, the seller entity and the public
10   business trading hub are each separate and independently owned; and

11   performing via an automated trusted agent one or more private
12   business functions associated with the public exchange of the one or
13   more commodities between the buyer entity and the seller entity using
14   the public business trading hub, wherein the one or more private
15   business functions include managing in private at least one of:

16   (i) one or more pricing terms associated with the public exchange;

17   (ii) one or more contract terms associated with the public exchange;

18   (iii) one or more business terms associated with supply and demand of
19   commodities associated with the public exchange; and

20   (iv) one or more product schedules associated with the public
21   exchange, and

22   wherein the automated trusted agent is electronically coupled to the
23   public business trading hub and is separate from the buyer entity, the
24   seller entity and the public business trading hub, and wherein details
25   of the one or more private business functions performed by the
26   automated trusted agent remain unknown to other entities accessing
27   the public business trading hub.

1   This appeal arises from the Examiner's Final Rejection, mailed January 11,

2   2005. The Appellants filed an Appeal Brief in support of the appeal on July 6,

3   2005, and the Examiner mailed an Examiner's Answer to the Appeal Brief on

4   December 12, 2005.

5   PRIOR ART

6   The prior art references of record relied upon by the Examiner in rejecting the

7   appealed claims are:

8   Barnes   US 5,970,475   Oct. 19, 1999

9   Meltzer   US 6,125,391   Sep. 26, 2000

10   Fox   US 6,560,581 B1   May 6, 2003
11   (Jun. 8, 1998)

12   Johnson   US 6,598,029 B1   Jul. 22, 2003
13   (Apr. 4, 2000)

14   Haddad   US 2003/0208433 A1   Nov. 6, 2003
15   (Dec. 12, 2000)

16   We also make the following art of record

17   Conklin   US 6,141,653   Oct. 31, 2000

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19   REJECTION

20   Claims 1, 3-5, 7-10, 12-34, 36-38, 40-43, 45-69, 71-73, 75-78, and 80-101

21   stand rejected under 35 U.S.C. § 103(a) as obvious over Barnes, Meltzer, Fox, and

22   either of Haddad or Johnson.

23   The Examiner applies Barnes for its description of trading system

24   implementation details and of the use of trusted electronic data interchange (EDI)

1 agents, Meltzer for its description of a trusted agent to manage specific contract

2 terms between trading partners, Fox for describing a trusted credential authority for

3 administering contracts, and Haddad and Johnson each for examples of electronic

4 commodity exchange.

5   ISSUES

6   The issues pertinent to this appeal are

7   • Whether the art applied describes or would have fairly suggested, to one of

8   ordinary skill in the art, utilizing, by a buyer entity and a seller entity, an

9   automated public business trading hub in the public exchange of one or more

10   commodities, wherein the buyer entity, the seller entity, and the public

11   business trading hub are each separate and independently owned.

12 • Whether the art applied describes or would have fairly suggested, to one of

13   ordinary skill in the art, performing via an automated trusted agent one or

14   more private business functions associated with the public exchange of the

15   one or more commodities between the buyer entity and the seller entity

16   using the public business trading hub, wherein the one or more private

17   business functions include managing in private at least one of:

18   o (i) one or more pricing terms associated with the public exchange;

19   o (ii) one or more contract terms associated with the public exchange;

20   o (iii) one or more business terms associated with supply and demand of

21   commodities associated with the public exchange; and

22   o (iv) one or more product schedules associated with the public

23   exchange,

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1   • Whether the art applied describes or would have fairly suggested, to one of

2   ordinary skill in the art, that the automated trusted agent is electronically

3   coupled to the public business trading hub and is separate from the buyer

4   entity, the seller entity and the public business trading hub, and wherein

5   details of the one or more private business functions performed by the

6   automated trusted agent remain unknown to other entities accessing the

7   public business trading hub.

8   In particular, the Appellants contend that none of the applied art, including

9   Haddad and Johnson, teach the existence of an automated trusted agent

10   (performing one or more of the recited business functions of the independent

11   claims) to add private relationships (and hierarchical authority) to a public business

12   trading hub, thereby allowing, for example, selected mission critical aspects of a

13   fulfillment process (e.g., confidential preferential pricing terms) to be shielded

14   from certain entities while allowing non-critical information or terms in the

15   exchange of commodities to freely flow between entities via the automated public

16   business trading hub. (Br. 15-16).

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18   FACTS PERTINENT TO THE ISSUES

19   The following facts pertinent to the above issues are supported by a

20   preponderance of the evidence:

21   Barnes teaches a method for facilitating the exchange of goods/services

22   (Abstract)(Fig 1)(Fig 2) utilizing the Internet(Fig 1)(Fig 6B) and incorporating

23   suppliers and buyers(Fig 6B/106)(Fig 6A/84/78) incorporating a bank and a

24   clearing mechanism(Fig 6A/50/18) as well as an invoicing mechanisms

1   (Fig 10)(Fig 11)(Fig 22)(Fig 23)(Fig 24) and approved suppliers(Fig 16) for a

2   commodity(Fig 5/12). (Answer 3-4).

3   Barnes further teaches payment, clearance and settlement over the Internet

4   between a buyer and seller. Barnes also teaches a procurement system(Fig 3/12)

5   and a certificate authority(Fig 3/54), a supplier system(Fig 3/16), a clearing

6   gateway(Fig 3/50), as well as client registration(Fig 5/58) and shipment of

7   goods(Fig 5/64), and a purchase order(Fig 5/66). Barnes further teaches an event

8   handler (Fig 6A/80), and a certificate authority application (Fig 7/110), as well as

9   making a purchase (Fig 11) and maintaining suppliers(Fig 14), and a supplier

10   payments maintenance system(Fig 22). (Answer 4).

11   The certificate of authority in Barnes administers a security feature which

12   authenticates buyers and sellers and suppliers. (Answer 4).

13   The Examiner asserts that this function is within the broad recitation of

14   subparagraph iii and iv as recited by applicant and that the terms "strategic

15   relationship" and "business process" are encompassed within an authentication

16   process per se where the certificate of authority in Barnes is considered a "trusted

17   agent". (Answer 4).

18   Meltzer teaches a transaction network consisting of multiple trading

19   partners(Fig 1) operating on the Internet (Fig 1/19) including a bid (Fig 2/220/207)

20   and a trading apparatus(Fig 3) incorporating commercial functions(Fig 3/305)as

21   well as an attribute characterization and bid builder(Fig 7/700) and a database

22   (Fig 7/706) and auction house bids(Fig 8/804) and warehouse bids for

23   commodities(Fig 8/803) and currencies(Fig 818) and a GUI(Fig 9/900)to the user

24   for the bidding process and publish bidding on the network (Fig 9/907) utilizing

25   product identifiers from OEMs(Fig 8/820) and bidding by RFQs (Fig 8/813)

1 including market maker mechanisms(Fig 11/1105) and an architecture consisting

2 of market makers, marketplaces, businesses, services, transactions, and products.

3 (Answer 4-5).

4   Fox describes a buy/sell model (Abstract) and a credential-binding server

5 (Fig 22/364)(Fig 1/26/28)(Fig 2/26/28)(Fig 6)(Fig 7)(Fig 10/180/179)

6 (Fig 17/310)(Fig 18/310) at a trusted credential authority (col. 2, ll. 25-34).

7 (Answer 5).

8   Fox also describes performing a selected business function of managing at least

9 one contract term associated with a transaction by the credential binding server

10 (col. 12, ll. 25-43) as well as utilizing a network (col. 2, ll. 10-25). Fox further

11 teaches generating/verifying a registration in the registration process

12 (Fig 3/50/52/54/56/58/60) and a transaction process (Fig 6) consisting of

13 verification (Fig 6/104) and encryption (Fig 6/110) and verifying the authenticity

14 of the originator(Fig 7/122) through signature verification(Fig 7/120). Fox further

15 teaches a commerce application (Fig 10/162) and encrypting and signing (Fig 12)

16 and a merchant, acquirer, purchaser, and a binder (Fig 17/304/306/302/310)

17 connected over a network (Fig 18/334/338) and purchaser application(Fig 19) and

18 merchant application (Fig 20) and acquirer application (Fig 21) and a binder

19 application (Fig 22). (Answer 5).

20   Haddad and Johnson both disclose a public business trading hub for the public

21 exchange of one or more commodities, wherein the buyer entity, seller entity, and

22 public business trading hub are each separate and independently owned [(para

23 0004 to Haddad) (col. 4, ll. 44-67; col. 5, ll. 1-8 to Johnson et al)]. (Answer 6).

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<center>ANALYSIS</center>

Claims 1, 3-5, 7-10, 12-34, 36-38, 40-43, 45-69, 71-73, 75-78, and 80-101 rejected under 35 U.S.C. § 103(a) as obvious over Barnes, Meltzer, Fox, and either of Haddad or Johnson.

From the above findings of facts supported by a preponderance of substantial evidence, we must conclude:

- The art applied describes utilizing, by a buyer entity and a seller entity, an automated public business trading hub in the public exchange of one or more commodities, wherein the buyer entity, the seller entity and the public business trading hub are each separate and independently owned.

- The art applied describes performing via an automated trusted agent one or more private business functions associated with the public exchange of the one or more commodities between the buyer entity and the seller entity using the public business trading hub, wherein the one or more private business functions include managing in private at least one of:
    - o (i) one or more pricing terms associated with the public exchange;
    - o (ii) one or more contract terms associated with the public exchange;
    - o (iii) one or more business terms associated with supply and demand of commodities associated with the public exchange; and
    - o (iv) one or more product schedules associated with the public exchange,

- The art applied describes that the automated trusted agent is electronically coupled to the public business trading hub and is separate from the buyer entity, the seller entity, and the public business trading hub,

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1   o but the art applied fails to describe or suggest that details of the one or

2   more private business functions performed by the automated trusted

3   agent remain unknown to other entities accessing the public business

4   trading hub.

5   The Examiner does not point anywhere in the applied art to an automated

6 trusted agent performing one or more of the recited business functions of the

7 independent claims to add private relationships to a public business trading hub,

8 and allowing confidential terms to be shielded from certain entities while allowing

9 non-critical information or terms in the exchange of commodities to freely flow

10 between entities via the automated public business trading hub, nor does the

11 Examiner show how the combined art suggests this. The Examiner's example of

12 shielding authentication information is not an example of managing one of the

13 enumerated business functions.

14   Accordingly, the Examiner has not shown that all of the elements of the

15 claimed subject matter were within or were obvious from the applied prior art, and

16 we do not sustain the Examiner's rejection of claims 1, 3-5, 7-10, 12-34, 36-38, 40-

17 43, 45-69, 71-73, 75-78, and 80-101 under 35 U.S.C. § 103(a) as obvious over

18 Barnes, Meltzer, Fox, and either of Haddad or Johnson.

19   REMARKS

20   If prosecution on the merits continues following this appeal, the Examiner

21 should consider whether the teachings of Conklin regarding its use of a

22 negotiations software engine placed on an intermediary site that manages business

23 information of buyers and sellers while retaining privacy over that information

24 raises issues of patentability in view of the art of record.

1   DECISION

2   To summarize, our decision is as follows:

3   • The rejection of claims 1, 3-5, 7-10, 12-34, 36-38, 40-43, 45-69, 71-73, 75-

4   78, and 80-101 under 35 U.S.C. § 103(a) as obvious over Barnes, Meltzer,

5   Fox, and either of Haddad or Johnson is not sustained.

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7   <u>REVERSED</u>

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